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UNITED STATES BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA – SAN FRANCISCO DIVISION

In Re:  
LEGAL RECOVERY, LLC

Debtor,

CHARLES LI,

Plaintiff,

v.

LEGAL RECOVERY, LLC,

Defendant

Case No.: 24-30074  
Chapter 11

A.P. No. 24-03022

FIRST AMENDED COMPLAINT TO  
DETERMINE DISCHARGEABILITY  
OF DEBT (11 U.S.C. §§523(a)(2)(A),  
523(a)(4), AND 523(a)(6))

1. Debtor and defendant herein filed a petition for relief under Chapter 11 of the Bankruptcy Code on February 6, 2024.

2. This Court has subject matter jurisdiction over this adversary proceeding pursuant to 28 U.S.C. §§157, 1334 and 11 U.S.C. § 523.

3. This is a core proceeding over which this Court has jurisdiction under title 28 U.S.C. §157(b)(2)(I).

4. Venue is proper under 28 U.S.C. § 1409(a).

5. Plaintiff is a natural person residing in this judicial district.

## Debtor's Alter Ego Liability

6. Debtor is a limited liability company, formed in December 2013, under the laws of the State of California.

7. Demas Yan ("Yan"), the manager of debtor, is a natural person and former attorney disbarred by the State Bar of California. Plaintiff is informed and believes, and based thereon alleges, that debtor was formed by Yan, who thereafter has exercised sole, exclusive and dominating control over it, in bad faith.

8. Yan formerly placed his mother Tina Yan as the figurehead manager of debtor, even though she had dementia, as was revealed when she filed her own bankruptcy petition in this Court (Case No. 22-30407).

9. Yan's control over and manipulation of debtor and defendant, his mother, and his father are detailed in *In re Lombard Flats, LLC*, No. 15-CV-00870-PJH, 2016 WL 1161593, at \*7 (N.D. Cal. Mar. 23, 2016), and has included, among other things, using Debtor, Yan's father, and other entities as alter-egos to file lawsuits identical to lawsuits that Yan himself filed but that were dismissed. For example, on May 31, 2024, the California Court of Appeal issued a decision affirming the trial court's decision in *Legal Recovery v. Crystal Lei, CGC-19-579664* (San Francisco Superior Court), finding that Legal Recovery is an alter ego of vexatious litigant Yan. *Legal Recovery LLC v. Crystal Lei, et al.* (Cal. Ct. App., May 31, 2024, No. A167818) 2024 WL 2792919 (unpub.) (affirming dismissal, affirming sanctions, and imposing further sanctions). Indeed, in another proceeding, Yan's father testified that he signed whatever Yan told him to sign, or words to that effect.

10. As more fully alleged below, Yan is a debtor on two judgments in favor of plaintiff Charles Li, an elderly man with limited knowledge of the law and the English language. The first judgment was obtained in May 2013, i.e., before the formation of debtor. The second judgment was obtained in May 2016. The ongoing failure of Yan to satisfy those judgments has damaged plaintiff.

1                   11. Plaintiff is informed and believes, and on the basis of that  
2 information and belief alleges, that Yan has rendered himself insolvent in an ongoing  
3 attempt to make himself judgment-proof, and is purportedly unable to satisfy his  
4 obligations under the judgments.

5                   12. In that regard, Yan's hiding of assets through relatives is detailed  
6 in *Li v. Yan*, 247 Cal.App.4<sup>th</sup> 56 (2016), and *In re Yan*, No. BAP NC-10-1476-JUHPA,  
7 2011 WL 2923855 (B.A.P. 9th Cir. July 11, 2011), and has included, among other things:  
8 (a) transferring real property at 547 23<sup>rd</sup> Avenue, San Francisco, California to a limited  
9 liability company; and (b) transferring interests in the limited liability company to three  
10 of his relatives; channeling fees earned from his unauthorized practice of law through the  
11 accounts of relatives; granting his wife a deed of trust that had no underlying debt.

12                   13. Debtor is liable for the liabilities of Yan alleged in this complaint  
13 as Yan's alter ego. Recognition of the privilege of separate existence would promote  
14 injustice and lead to an inequitable result, because Yan in bad faith dominated and  
15 controlled debtor as follows, such that their separate personalities no longer exist:

16                   a. Yan (manager of debtor) caused his funds and other assets  
17 to be comingled with debtor's funds and assets, in bad faith, and for Yan's convenience  
18 and to assist him in evading payment of his obligations and enforcement of the judgments  
19 against him. Specifically, and among other things: (i) Yan (manager of debtor) caused his  
20 funds and other assets to be comingled with debtor's funds and assets, in bad faith, and  
21 for Yan's convenience and to assist him in evading payment of his obligations and  
22 enforcement of the judgments against him; (ii) a community property promissory note in  
23 the name of Yan's wife was transferred to debtor; (iii) funds from debtor's bank account  
24 were used to open an escrow on a property purchased by a different entity Yan created  
25 and controls, Noble Lane LLC; and (iv) funds from debtor's bank account were used to  
26 open an escrow on a property that Yan's mother Tina Yan elsewhere listed as her own  
27 asset.

1                   b.       Yan diverted funds and other assets of debtor to other than  
2 corporate uses. Specifically, and among other things: (a) the fees for the management of  
3 undisclosed real property of unknown ownership were charged on a Legal Recovery  
4 credit card; and (b) legal and accounting fees for undisclosed and unrelated matters were  
5 paid from debtor's bank account.

6                   c.       Plaintiff is informed and believes, and based thereon  
7 alleges that, Yan failed to maintain adequate corporate records of debtor. Specifically and  
8 among other things, debtor did not have an operating agreement, file tax returns, or  
9 maintain accounting records.

10                  d.       Yan failed to adequately capitalize debtor, as demonstrated  
11 by its current insolvency and pending bankruptcy.

12                  e.       Yan used debtor as a mere shell, instrumentality, and  
13 conduit to conduct his own business and personal activities, without holding assets in his  
14 own name, in order to avoid enforcement of the judgments against him.

15                  f.       Yan has used debtor to procure labor, services, or  
16 merchandise for an unknown other person or entity. Specifically and among other things,  
17 fees for the management of undisclosed real property of unknown ownership were  
18 charged on a Legal Recovery credit card; and (b) legal and accounting fees for  
19 undisclosed and unrelated matters were paid from debtor's bank account.

#### 20                                   **Plaintiff's Claims**

21                  14.       On May 7, 2013, plaintiff obtained a judgment against Yan for  
22 professional malpractice, unauthorized practice of law, and fraud in *Charles Li v. Demas*  
23 *Yan*, CGC-10-497990 (San Francisco Superior Court). The fifth amended judgment was  
24 entered on November 30, 2018 for \$1,498,422.01. It has not been satisfied, and additional  
25 judgment interest and attorneys' fees have accrued. A true and correct copy of the fifth  
26 amended judgment is attached hereto as Exhibit A.

27                  15.       On June 24, 2016, plaintiff obtained a judgment against Yan, his  
28 mother, and two brothers-in-law for fraudulent transfer in *Charles Li v. Thai Ming Chiu*,

1 *et al.*, CGC-14-537574 (San Francisco Superior Court). The action was a proceeding to  
2 enforce and collect on plaintiff's judgment in *Li v. Yan*. The amount outstanding,  
3 including additional attorneys' fees, is approximately \$3,000,000. A true and correct  
4 copy of that judgment is attached hereto as Exhibit B.

5 16. Debtor is liable to plaintiff for the amounts owing by Yan under  
6 those judgments, under the theory of alter ego liability, for the reasons, and based upon  
7 the facts, alleged above.

## 8 CAUSES OF ACTION

### 9 Plaintiff's Claims Are Nondischargeable

10 17. Under 11 U.S.C. § 523(a)(2)(A), (a)(4) and (a)(6), debtor's  
11 indebtedness to plaintiff is nondischargeable.

## 12 FIRST CAUSE OF ACTION

### 13 Nondischargeability of Debt Under 11 U.S.C. § 523(a)(2)(A)

14 18. Plaintiff incorporates the preceding paragraphs as if fully restated  
15 herein.

16 19. 11 U.S.C. §523(a)(2)(A) provides that: "(a) A discharge ... does  
17 not discharge an individual Defendant from any debt, (2) for money, property, services,  
18 or an extension, renewal, or refinancing of credit, to the extent obtained by – (A) false  
19 pretenses, a false representation, or actual fraud."

20 20. On March 11, 2013, the trial court in *Li v. Yan* entered its  
21 statement of decision in that matter. A true and correct copy of that statement of decision  
22 is attached hereto as Exhibit C, and it is incorporated herein by this reference. The trial  
23 court found that: "Plaintiff has proved that Defendant committed professional negligence,  
24 breach of the fiduciary duty, engaged in the unauthorized practice of law, breach of  
25 contract and fraud."

26 21. In the statement of decision, the trial court took seven pages to  
27 explain the details of the interactions between Yan and Li, beginning with a joint venture  
28 between Yan and a friend of his, Tony Fu, for development of property, and an

1 assignment to Li of Fu's interest in the property which led to various disputes, during  
2 which Yan gave legal advice to Li, both as a law student, and later as a licensed attorney.

3 22. As described in the statement of decision, and among other things:

4 a. Yan fraudulently convinced Li that he had superior strategy  
5 and knowledge of the law, coupled with personal knowledge of Fu and his former wife  
6 that placed him in a better position to advise Li than his attorney. Yan fraudulently  
7 advised Li, based on his fraudulent claim of legal expertise, that Li had no contract claim  
8 against Yan and should instead pursue Tony Fu exclusively.

9 b. Yan instructed Li to just sign a form dismissing Li's then  
10 pending breach of contract suit against Yan and send it to him. Yan completed the form  
11 and checked the dismissal "with prejudice" box. Li was unaware that the dismissal was  
12 with prejudice and did not know the legal significance of "with prejudice" or "without  
13 prejudice." Yan e-mailed a dismissal of Li's bankruptcy claim to Li, which Li signed.  
14 Yan filed both forms in August 2007, resulting in dismissal of the breach of contract  
15 action with prejudice and dismissal of the associated bankruptcy proof of claim.

16 c. Li's attorney-of-record withdrew, and Yan instructed Li to  
17 represent himself. Yan assured Li that he would advise him on the conduct of the suit  
18 until Yan was licensed and could assume formal representation as Li's attorney. Li  
19 complied and was self-represented, with Yan giving him directions on how to proceed.

20 d. Yan filed suit against Li and others, telling Li he had  
21 named him as a matter of legal procedure, and did not explain the conflict or Li's  
22 potential liability.

23 e. An expert witness testified on behalf of Li that: (i) those  
24 who engage in the unauthorized practice of law (i.e., Yan) are held to the same ethical  
25 standards and standards for the duty of care and fiduciary duty as attorneys; (ii) Yan had  
26 failed to meet the standard of care and fiduciary duty in his representation of Li because  
27 of conflicts of interest, i.e., Yan had a personal interest adverse to Li; and (iii) Yan

1 demonstrated that adverse interest when he influenced Li to dismiss his case against Yan,  
2 which benefitted only Yan, and never advised Li to reinstate his valid claim against Yan.

3 f. Yan did not disclose his conflicts of interest, the legal  
4 advice was false, and “[t]he breach of standard of care and fiduciary duty by Yan was a  
5 substantial factor in causing Li to lose his claim against Yan on the assignment.” Li was  
6 forced to forfeit his right to proceed against Yan and Fu together.

7 23. The judgment that resulted from Yan’s conduct as alleged above  
8 (along with all associated fees, costs and interest), and detailed more fully in the  
9 statement of decision, constitutes a debt for money, property, [or] services . . . obtained  
10 by . . . false pretenses, a false representation, or actual fraud,” because: (a) Yan made  
11 misrepresentations of fact and law to Li, affirmatively and by omission, and engaged in  
12 deception; (b) Yan knew of the falsity and deceptiveness of his statements and conducts,  
13 by reason of his experience and legal training; (c) Yan intended to deceive Li, in order to  
14 obtain property, i.e., the personal and pecuniary benefit of getting a lawsuit against  
15 himself dismissed with prejudice; (d) Li justifiably relied on Yan’s statement and  
16 conduct; and (e) Li’s reliance proximately caused him damage from his lost rights and  
17 claims.

18 24. On June 24, 2016, the trial court in *Li v. Chiu* entered its statement  
19 of decision in that matter. A true and correct copy of that statement of decision is  
20 attached hereto as Exhibit D, and it is incorporated herein by this reference. The trial  
21 court found, among other things, that:

- 22 1. Plaintiff has a right to payment from Demas Yan.
- 23 2. Plaintiffs right to payment from Demas Yan arose before  
24 Demas Yan transferred the Subject Property.
- 25 3. Demas Yan transferred the Subject Property to [the other ]  
26 defendants....
- 27 4. Demas Yan transferred the Subject Property to defendants with  
28 the intent to hinder, delay, or defraud plaintiff.
5. Demas Yan failed to receive a reasonably equivalent value in  
exchange for the transfer of the Subject Property.
6. Demas Yan was insolvent at the time of the transfer, or became  
insolvent as a result of the transfer.

1                   7. Demas Yan's conduct was a substantial factor in causing  
2                   plaintiff's harm. [The other defendants] did not receive the  
3                   property in good faith.

4                   25. In view of the findings in the statement of decision, the resulting  
5                   judgment (Exhibit 2 hereto) setting aside the fraudulent transfers, along with all  
6                   associated fees, costs and interest, is non-dischargeable under 11 U.S.C. §523(a)(2)(A).

7                   26. As a result of Yan's action plaintiff suffered a potential loss in the  
8                   amount of the judgments (along with all associated fees, costs and interest), for which  
9                   debtor is liable as Yan's alter ego, as alleged above.

## 10                   **SECOND CAUSE OF ACTION**

### 11                   **Nondischargeability of Debt Under 11 U.S.C. § 523(a)(4)**

12                   27. Plaintiff incorporates the preceding paragraphs as if fully restated  
13                   herein.

14                   28. 11 U.S.C. §523(a)(4) provides that: "(a) A discharge ... does not  
15                   discharge an individual debtor from any debt . . . (4) for fraud or defalcation while acting  
16                   in a fiduciary capacity, embezzlement, or larceny."

17                   29. The judgments that resulted from Yan's fraudulent conduct as  
18                   alleged above, and detailed more fully in the statement of decision, constitute debts owed  
19                   for fraud while acting in a fiduciary duty, because: (a) Yan was acting in a fiduciary duty,  
20                   as Li's unlicensed and then licensed attorney; (b) Yan made misrepresentations of fact  
21                   and law to Li, affirmatively and by omission, and engaged in deception; (c) Yan knew of  
22                   the falsity and deceptiveness of his statements and conducts, by reason of his experience  
23                   and legal training; (d) Yan intended to deceive Li, in order to obtain property, i.e., the  
24                   personal and pecuniary benefit of getting a lawsuit against himself dismissed with  
25                   prejudice; (e) Li justifiably relied on Yan's statement and conduct; and (f) Li's reliance  
26                   proximately caused him damage from his lost rights and claims.

27                   30. As such, Yan's debts to Li are non-dischargeable under 11 USC  
28                   U.S.C. §523(a)(4).



1           31.     As a result of Yan's action plaintiff suffered a potential loss in the  
2 amount of the judgments (along with all associated fees, costs and interest), for which  
3 debtor is liable as Yan's alter ego, as alleged above.

### 4                           **THIRD CAUSE OF ACTION**

#### 5                   **Nondischargeability of Debt Under 11 U.S.C. § 523(a)(6)**

6           32.     Plaintiff incorporates the preceding paragraphs as if fully restated  
7 herein.

8           33.     11 U.S.C. 523 (a)(6) provides that: "(a) A discharge ... does not  
9 discharge an individual Defendant from any debt . . . for willful and malicious injury by  
10 the debtor to another entity or to the property of another entity."

11           34.     11 U.S.C. §101(15) provides that: "The term 'entity' includes  
12 person, estate, trust, governmental unit, and United States trustee.

13           35.     Yan's debts under the judgment for legal malpractice and fraud  
14 constituted debts for "willful and malicious injury . . . to another [person].

15           36.     Those injuries to Li were willful, because:

16                   a.     Yan had a subjective motive to inflict the injury, i.e., to be  
17 free of Li's claims and potential claims against him; and

18                   b.     Plaintiff is informed and believes, and based thereon  
19 alleges, that when Yan completed the signed, but only partially completed, dismissals and  
20 caused them to be filed, Yan possessed either the subjective intent to cause harm to Li  
21 (the loss of his claims against Yan) or he had knowledge (from his legal training) to know  
22 that injury to Li was substantially certain to occur as a result from his actions.

23           37.     Those injuries to Li were malicious, because:

24                   a.     Yan's actions were wrongful, constituting both professional  
25 malpractice and fraud, and Yan acted upon the most severe professional conflict of  
26 interest, that between himself and his client, an elderly man with limited knowledge of  
27 the law and the English language, and exploited his client for Yan's own benefit.

1                   b.       Yan's actions were intentional, and specifically that (i) Yan  
2 intentionally deceived Li (as more fully set forth above), (ii) intentionally failed to  
3 disclose his conflicts of interest, (iii) intentionally failed to meet the standard of care, and  
4 (iii) intentionally completed the signed, but only partially completed dismissal form, to  
5 request dismissal with prejudice and caused them to be filed.

6                   c.       Yan's actions necessarily caused Li to be injured by the  
7 loss of Li's claims against Yan; indeed, that was the very point of Yan's intentional acts  
8 as alleged herein.

9                   d.       Yan had no just cause or excuse for causing the injury.

10               38.       Yan's debts under the judgment setting aside the fraudulent  
11 transfers constitute debts for "willful and malicious injury . . . to another [person].

12               39.       Those injuries to Li were willful, because:

13                   a.       Yan had a subjective motive to inflict the injury, i.e., shield  
14 his assets from collection to deprive Li of the ability to collect under the earlier judgment;  
15 and

16                   b.       Plaintiff is informed and believes, and based thereon  
17 alleges, that when Yan transferred the property to the other defendants in that matter, Yan  
18 possessed either the subjective intent to cause harm to Li (to deprive Li of his legitimate  
19 rights to collect against Yan's assets on his earlier judgment) or he had knowledge (from  
20 his legal training) to know that injury to Li was substantially certain to occur as a result  
21 from his actions.

22               40.       Those injuries to Li were malicious, because:

23                   a.       Yan's actions were wrongful, in that Yan transferred the  
24 property with the intent to hinder, delay or defraud Li, and Yan failed to receive a  
25 reasonably equivalent value for the property.

26                   b.       Yan's actions were intentional, and specifically that Yan  
27 transferred the property with the intent to hinder, delay or defraud Li.

28

1 c. Yan's actions necessarily caused Li to be injured by the  
2 fraudulent transfers to the other defendants; indeed, that was the very point of the  
3 fraudulent transfers.

4 d. Yan had no just cause or excuse for causing the injury.

5 41. As such, Yan's debts to Li are non-dischargeable under 11 USC  
6 U.S.C. §523 (a)(6).

7 42. As a result of Yan's action plaintiff suffered a potential loss in the  
8 amount of the judgments (along with all associated fees, costs and interest), for which  
9 debtor is liable as Yan's alter ego, as alleged above.

10 PRAYER

11 Wherefore, plaintiff PRAYS that the Court enter a judgment or order:

12 1. Declaring that debtor is debtor is liable to plaintiff for the amounts  
13 owing by Yan under those judgment, under the theory of alter ego liability

14 2. Determining that debtor's debt to plaintiff is nondischargeable.

15 3. Awarding plaintiff an amount subject to proof but no less than  
16 \$3,000,000.

17 4. Awarding interest and reasonable attorneys' fees and costs.

18 5. Awarding such other relief as is just and proper.

19

20 DATED: August 23, 2024

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/s/ Duy Thai  
Duy Thai  
Attorney for Charles Li

# Exhibit A



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Nov-30-2018 1:58 pm

Case Number: CGC-10-497990

Filing Date: Nov-30-2018 1:56

Filed by: ALVIN MOK

Image: 06592739


COURT JUDGMENT - GENERAL

CHARLES LI VS. DEMAS YAN et al

001C06592739

**Instructions:**

Please place this sheet on top of the document to be scanned.

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, state bar number, and address): <b>Duy Thai, SBN 157345</b> <b>One Embarcadero Center, Suite 1020</b> <b>San Francisco, California 94111</b> TELEPHONE NO.: (415) 296-9927      FAX NO. (Optional): (415) 230-5779 E-MAIL ADDRESS (Optional): ATTORNEY FOR (Name): <b>CHARLES LI</b>	<b>FOR COURT USE ONLY</b>  <div style="font-size: 2em; font-weight: bold; letter-spacing: 0.5em;">FILED</div> <i>San Francisco County Superior Court</i>  <b>NOV 30 2018</b>  <b>CLERK OF THE COURT</b> BY: <u></u> Deputy Clerk
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF San Francisco</b> STREET ADDRESS: <b>400 McAllister Street</b> MAILING ADDRESS: CITY AND ZIP CODE: <b>San Francisco, California 94102</b> BRANCH NAME: <b>Civic Center Courthouse</b>	CASE NUMBER: <b>CGC-10-497990</b>
PLAINTIFF: <b>CHARLES LI</b>  DEFENDANT: <b>DEMAS YAN, et al.</b>	
<div style="display: flex; justify-content: space-between;"> <div> <b>FIFTH AMENDED JUDGMENT</b>  <input type="checkbox"/> By Clerk      <input type="checkbox"/> By Default      <input checked="" type="checkbox"/> After Court Trial  <input checked="" type="checkbox"/> By Court      <input type="checkbox"/> On Stipulation      <input type="checkbox"/> Defendant Did Not Appear at Trial         </div> </div>	

**JUDGMENT**

1. ☐ **BY DEFAULT**
  - a. Defendant was properly served with a copy of the summons and complaint.
  - b. Defendant failed to answer the complaint or appear and defend the action within the time allowed by law.
  - c. Defendant's default was entered by the clerk upon plaintiff's application.
  - d. ☐ **Clerk's Judgment** (Code Civ. Proc., § 585(a)). Defendant was sued only on a contract or judgment of a court of this state for the recovery of money.
  - e. ☐ **Court Judgment** (Code Civ. Proc., § 585(b)). The court considered
    - (1) ☐ plaintiff's testimony and other evidence.
    - (2) ☐ plaintiff's written declaration (Code Civ. Proc., § 585(d)).
2. ☐ **ON STIPULATION**
  - a. Plaintiff and defendant agreed (stipulated) that a judgment be entered in this case. The court approved the stipulated judgment and
  - b. ☐ the signed written stipulation was filed in the case.
  - c. ☐ the stipulation was stated in open court      ☐ the stipulation was stated on the record.
3. ☒ **AFTER COURT TRIAL.** The jury was waived. The court considered the evidence.
  - a. The case was tried on (date and time): **March 19, 2012, 9:30am**  
 before (name of judicial officer): **Honorable Cynthia Ming-mei Lee**
  - b. Appearances by:
 

<input checked="" type="checkbox"/> Plaintiff (name each): (1) <b>Charles Li</b> (2) <input type="checkbox"/> Continued on Attachment 3b.	<input type="checkbox"/> Plaintiff's attorney (name each): (1) <b>Duy Thai</b> (2)
<input checked="" type="checkbox"/> Defendant (name each): (1) <b>Demas Yan, a.k.a. Dennis Yan</b> (2) <input type="checkbox"/> Continued on Attachment 3b.	<input type="checkbox"/> Defendant's attorney (name each): (1) <b>in pro per</b> (2)
  - c. ☐ Defendant did not appear at trial. Defendant was properly served with notice of trial.
  - d. ☒ A statement of decision (Code Civ. Proc., § 632) ☐ was not ☒ was requested.

PLAINTIFF: CHARLES LI	CASE NUMBER:
DEFENDANT: DEMAS YAN, et al.	CGC-10-497990

JUDGMENT IS ENTERED AS FOLLOWS BY: ☒ THE COURT ☐ THE CLERK

4. ☐ **Stipulated Judgment.** Judgment is entered according to the stipulation of the parties.

5. **Parties.** Judgment is

a. ☒ for plaintiff (*name each*):

Charles Li

and against defendant (*names*):

Demas Yan, a.k.a. Dennis Yan

☐ Continued on Attachment 5a.

b. ☐ for defendant (*name each*):

c. ☐ for cross-complainant (*name each*):

and against cross-defendant (*name each*):

☐ Continued on Attachment 5c.

d. ☐ for cross-defendant (*name each*):

6. **Amount.**

a. ☒ Defendant named in item 5a above must pay plaintiff on the complaint:

(1)	<input checked="" type="checkbox"/> Damages	\$ 254,411.06
(2)	<input checked="" type="checkbox"/> Prejudgment interest at the annual rate of 10 %	\$ 149,667.29
(3)	<input checked="" type="checkbox"/> Attorney fees	\$ 684,053.00
(4)	<input checked="" type="checkbox"/> Costs	\$ 26,863.21
(5)	<input checked="" type="checkbox"/> Other ( <i>specify</i> ): postjudgment interest	\$ 383,427.45
(6)	<b>TOTAL</b>	\$ 1,498,422.01

c. ☐ Cross-defendant named in item 5c above must pay cross-complainant on the cross-complaint:

(1)	<input type="checkbox"/> Damages	\$
(2)	<input type="checkbox"/> Prejudgment interest at the annual rate of %	\$
(3)	<input type="checkbox"/> Attorney fees	\$
(4)	<input type="checkbox"/> Costs	\$
(5)	<input type="checkbox"/> Other ( <i>specify</i> ):	\$
(6)	<b>TOTAL</b>	\$

b. ☐ Plaintiff to receive nothing from defendant named in item 5b.

☐ Defendant named in item 5b to recover costs \$  
☐ and attorney fees \$

d. ☐ Cross-complainant to receive nothing from cross-defendant named in item 5d.

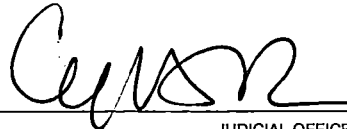
☐ Cross-defendant named in item 5d to recover costs \$  
☐ and attorney fees \$

7. ☐ Other (*specify*):

Date:

Nov 30, 2018

☒



JUDICIAL OFFICER

CYNTHIA MING-MEI LEE

Date:

☐ Clerk, by \_\_\_\_\_, Deputy

(SEAL)

**CLERK'S CERTIFICATE (Optional)**

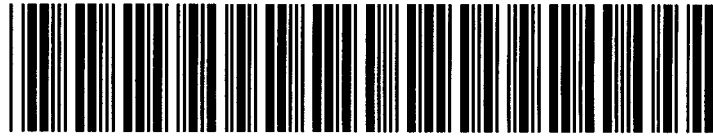
I certify that this is a true copy of the original judgment on file in the court.

Date:

Clerk, by \_\_\_\_\_, Deputy

# Exhibit B





**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Jun-24-2016 3:58 pm

Case Number: CGC-14-537574

Filing Date: Jun-24-2016 3:57

Filed by: YOLANDA MAZARIEGOS

Image: 05451062

TEXT JUDGMENT

CHARLES LI VS. THAI MING CHIU et al

001C05451062

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2 One Embarcadero Center, Suite 1020  
3 San Francisco, California 94111  
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**FILED**  
San Francisco County Superior Court

JUN 24 2016

CLERK OF THE COURT  
BY: J. Maganuco Deputy Clerk

7 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
8 COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION

9 CHARLES LI, an individual,

10 Plaintiff,

11 v.

12 THAI MING CHIU, an individual,  
13 DEMAS YAN, an individual, KAMAN  
14 LIU, an individual, TINA YAN a/k/a  
15 TINA FOON YU YAN, an individual,  
16 CHEUK TIN YAN, an individual, 547  
17 23<sup>RD</sup> AVENUE, LLC, a California limited  
18 liability company, 547 INVESTMENTS  
19 LLC, a California limited liability  
20 company,

21 Defendants.

Case No.: CGC-14-537574

~~[PROPOSED]~~ JUDGMENT SETTING  
ASIDE FRAUDULENT TRANSFERS

22 This action came on regularly for trial on April 4, 5, 7, 8, 11, and 14,  
23 2015, in Department 504 of the San Francisco County Superior Court, the Honorable  
24 Suzanne Susan R. Bolanos presiding. DUY THAI and Stewart Kellar appeared as attorneys for  
25 plaintiff Charles Li. Albert Boasberg and Demas Yan appeared as attorneys for  
26 defendants Thai Ming Chiu, KaMan Liu, Cheuk Tin Yan, and Tina Yan.

27 The default of defendant Demas Yan was previously entered on May 21,  
28 2014. The default of defendant 547 Investments, LLC was previously entered on May 21,

1 2014. The default of defendant 547 23<sup>rd</sup> Avenue, LLC was previously entered on  
2 September 25, 2014. Plaintiff filed the request for dismissal of Does 1 through 50 on  
3 August 25, 2015.

4 On April 14, 2016, the jury rendered verdict against each of appearing  
5 defendants Cheuk Tin Yan, Tina Yan, Thai Ming Chiu, and KaMan Liu. On the same  
6 date, the Court also ruled that defendants have failed to establish any equitable grounds  
7 for altering the jury verdict.

8 Accordingly, the Court hereby ADJUDGES, ORDERS, and DECLARES  
9 against all defendants as follows:

10 A. Judgment of \$824,180.57 is hereby entered jointly against Cheuk  
11 Tin Yan and Tina Yan.

12 B. Judgment of \$324,167.58 is hereby entered against Thai Ming  
13 Chiu.

14 C. Judgment of \$72,037.24 is hereby entered against KaMan Liu.

15 D. The real property referred to herein is situated in the State of  
16 California, City and County of San Francisco, and is legally described as follows:  
17 “Commencing at a point on the Westerly line of 23rd Avenue, distant thereon 275 feet  
18 Southerly from the Southerly line of Anza Street; running thence Southerly along said  
19 Westerly line of 23rd Avenue 25 feet; thence at a right angle Westerly 120 feet; thence at  
20 a right angle Northerly 25 feet; and thence at a right angle Easterly 120 feet to the  
21 Westerly line of 23rd Avenue and the point of commencement. Being a portion of  
22 Outside Land Block No. 306. Assessor's Lot 12, Block 1566.” It is referred to herein as  
23 the “Subject Property.”

24 E. Default judgment is hereby entered against defendants Demas Yan  
25 and 547 23<sup>rd</sup> Avenue, LLC. The transfer of the Subject Property from defendant Demas  
26 Yan to defendant 547 23<sup>rd</sup> Avenue, LLC, recorded as Document I503243 BK-PG: J538-  
27 0442 in the records of the Office of the Assessor-Recorder, City and County of San  
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1 Francisco, California, is fraudulent, void, and hereby set aside to the extent necessary to  
2 satisfy plaintiff's judgment against defendant Demas Yan in *Charles Li v. Demas Yan*,  
3 San Francisco Superior Court No. CGC-10-497990, as further amended to include any  
4 additional attorneys' fees, costs, and interest provided by law ("Underlying Judgment");

5 F. The transfer of Demas Yan's membership interests in 547 23<sup>rd</sup>  
6 Avenue, LLC, from defendant Demas Yan to defendants Thai Ming Chiu, Kaman Liu,  
7 and Tina Yan was made with the intent to hinder, delay, or defraud plaintiff; was  
8 received without good faith and not in exchange for reasonably equivalent value; and is  
9 hereby set aside to the extent necessary to satisfy plaintiff's Underlying Judgment;

10 G. Default judgment is hereby entered against defendants 547 23<sup>rd</sup>  
11 Avenue, LLC and 547 Investments, LLC. The conveyance of the Subject Property from  
12 defendant 547 23<sup>rd</sup> Avenue, LLC to defendant 547 Investments LLC, recorded as  
13 Document J784407 BK-PAG: L025-0559 in the records of the Office of the Assessor-  
14 Recorder, City and County of San Francisco, California, is fraudulent, void, and hereby  
15 set aside to the extent necessary to satisfy plaintiff's Underlying Judgment.

16 H. For the purpose of satisfying plaintiff's Underlying Judgment, and  
17 for that purpose only, Demas Yan is DECLARED the sole owner of all legal and  
18 equitable title or interest in the Subject Property. Plaintiff may execute or foreclose on the  
19 Subject Property to satisfy plaintiff's Underlying Judgment.

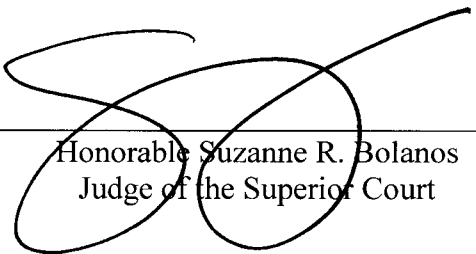
20 I. Plaintiff may seize, execute on, or foreclose on any real or personal  
21 property of any defendant provided that recovery against any defendant shall not exceed  
22 the money judgment amount entered above against that specific defendant, and further  
23 provided that plaintiff's aggregate recovery shall not exceed the sum of plaintiff's  
24 Underlying Judgment and the costs awarded hereunder in Paragraph L.

25 J. The Court hereby ORDERS all defendants to do the following in  
26 relation to the Subject Property: (1) maintain, receive, and collect all rents, security  
27 deposits, and other rental or lease payments in the ordinary course of business; (2)  
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1 maintain and continue payment on all required taxes, fees, mortgages, reasonable  
2 insurance, and reasonable expenses in the ordinary course of business; (3) secure and  
3 maintain all books, documents, and records relating to the matters in (1) and (2) in this  
4 Section, and render an accounting of the same upon request by plaintiff.

5 K. The Court hereby ENJOINS all defendants from doing the  
6 following in relation to the Subject Property: (1) committing or permitting any waste on  
7 the Subject Property; (2) committing or permitting any act in violation of law; (3)  
8 removing, encumbering, wasting, or otherwise disposing of any of the fixtures on the  
9 property; (2) selling, transferring, disposing, encumbering, concealing, or otherwise  
10 transferring the Subject Property without a prior court order; and (3) doing any act that  
11 will impair the preservation of the Subject Property or plaintiff's interest in the Subject  
12 Property.

13  
14 DATED: 6/27/16

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18 Honorable Suzanne R. Bolanos  
19 Judge of the Superior Court  
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# Exhibit C



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Mar-11-2013 3:43 pm

Case Number: CGC-10-497990

Filing Date: Mar-11-2013 3:42

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STATEMENT OF DECISION

CHARLES LI VS. DEMAS YAN et al

001C03974680

**Instructions:**

Please place this sheet on top of the document to be scanned.

MAR 11 2013

CLERK OF THE COURT

BY: [Signature] Deputy Clerk

SUPERIOR COURT OF CALIFORNIA,

COUNTY OF SAN FRANCISCO

DEPARTMENT 306

CHARLES LI, an individual,

Case No. CGC-10-497990

Plaintiff,

STATEMENT OF DECISION

vs.

DEMAS YAN, an individual,  
and DOES 1 TO 10, Inclusive

Defendants.

This matter came on for trial on March 19, 26-April 2, May 30, July 10, 2012. Thereafter, supplemental briefs and Proposed Statements of Decision were submitted by both sides subsequent to July 10, 2012. Plaintiff Charles Li was represented by Duy Thai. Defendant Demas Yan was self-represented.

On March 22, 2010, Charles Li filed this action for Professional Negligence, Breach of Fiduciary Duty, Unlawful, Unfair or Fraudulent Business Practice, Breach of Contract, and Fraud. On April 2, 2012, Li filed a First Amended Complaint.

After full consideration of all the evidence presented at trial, exhibits, arguments of counsel, supplemental briefs, proposed statements of decision, and pleadings, the court finds that Plaintiff has proved that Defendant committed professional negligence, breach of the fiduciary duty, engaged in the unauthorized practice of law, breach of contract and fraud.



1 FACTS

2 On September 13, 2000, Defendant Yan and a third party, Tony Fu entered into an  
3 agreement to develop property at 547 23rd Avenue, San Francisco, California (hereinafter the  
4 "Property") (Joint Ex. 1). The agreement stated:

5 "1. Demas will pay Tony \$3000 monthly (sic) salary during the construction  
6 period.

7 2. Demas will pay Tony 10% of the sold price (or appraisal market price shall  
8 (sic) Demas choose to keep the building) Within six months after Final Inspection  
9 of the project."

10 The Property was purchased from Fu's ex-wife (Crystal Lei) for \$250,000. Work permits  
11 had previously been taken out by Fu. A revised permit was issued on September 24, listing Yan  
12 as the owner and Fu as the general contractor. Fu started work that continued until the  
13 Department of Building Inspections (DBI) placed a stop work order on the project in May 2001.  
14 Fu did not perform any further construction work after May 17, 2001. A successful appeal  
15 followed and new permits were issued in July 2002, listing Yan as the owner-builder. Fu was  
16 not listed on the new permits. Fu's contractor license had been suspended in October 2001 and  
17 lapsed on October 31, 2001.

18 On August 28, 2002, Yan and Fu executed a "Memorandum" detailing a discussion  
19 between the parties two days earlier, regarding the original Agreement (Joint Ex. 9). Yan  
20 signaled his intent to cancel the Agreement. He had obtained a contractor's license and wanted  
21 to finish the project himself. The pertinent parts of this document are:

22 "Demas stated that he would like to pay Tony for past services and buy out

23 Tony's interest in the property, as specified in the agreement"

1 and further acknowledged Fu's substantial services in the construction specifically.

2 On September 2, 2002, in a memorandum entitled "Termination of September 13, 2000  
3 Agreement" (Joint Ex. 10), Yan provided notice of intention to terminate the Agreement, and  
4 reiterated having his own contractor's license as the reason for the termination. The document  
5 further stated:

6 "To the extent that I owe you money for your services, I will pay everything I  
7 owe no later than the close of escrow for the sale of my interest in the property  
8 located at 663 Chenery Street, San Francisco."

9 Both parties signed this memorandum. "663 Chenery Street" referred to a joint venture  
10 project which Yan and Fu entered into on October 18, 2000. The written agreement on that  
11 project delineated percentage ownership, cost responsibilities, distribution of proceeds and the  
12 right to assign or transfer ownership by each party. There was litigation in Bankruptcy Court  
13 relating to an assignment by Fu to an unrelated party. (Pl. Ex. 96). The Chenery Street project  
14 was completed and the property was sold in 2005.

15 Yan and Fu were in business together, jointly exploring and developing construction  
16 projects. They had been friends for some time. Yan sometimes referred to Fu as his "partner",  
17 although there was no legal formal partnership agreement. The testimony at trial was there were  
18 four separate projects they were engaged in together. In September 2002, Yan and Fu started  
19 several remodel/development projects, the Property and 663 Chenery Street. In each of these two  
20 projects, Fu contributed construction and non-construction activity. Fu obtained the permits and  
21 plans for construction prior to the transfer of the Property to Yan, and thereafter performed  
22 construction work and project supervision. After the stop work order, Fu performed other  
23 functions in assisting in the appeals process and obtaining a new permit. Fu obtained the

1 architects to draw new plans for an expanded project; the new project was for a new home, not  
2 merely a remodel, thus increasing the value of the project and his 10% interest in the property.

3 Construction at the Property was completed, and Certificate of Final Completion and  
4 Occupancy was issued on May 13, 2003. The Property was not sold, but retained by Yan.

5 Plaintiff Charles Li met Yan and Fu in late 2000 or early 2001, when he was hired to  
6 perform some engineering work on the Property. On July 2, 2003, Fu assigned his interest in the  
7 Property to Li in "Assignment Contract" (Joint Ex. 12) (hereinafter referred to as "Assignment"),  
8 in exchange for \$100,000.

9 Li contacted Yan in 2003 to demand payment on the Assignment, but was rebuffed. Li  
10 filed Li v. Demas Yan (San Francisco Superior Court CGC 04-431802) (hereinafter referred to  
11 as Li v. Yan (I), to distinguish it from the case at trial) on May 27, 2004 to enforce his rights  
12 under the assigned contract. Li testified he did so at the behest of Fu. Li was represented by  
13 attorney Siu Ma. By then, Li was aware of the termination memorandum of September 2. On  
14 December 19, 2004, Yan filed for bankruptcy (US Bankruptcy Court, N.D. Cal 04-33526200).  
15 Yan listed Li as an "assignee of a disputed claim" with a claim of \$200,000 as related to his  
16 ownership of the Property. Yan listed the value of the Property at \$1,600,000. Li received  
17 documents from Bankruptcy Court and learned of Yan's assertion that the Assignment was  
18 invalid because the contract had been terminated prior to the executed assignment, and  
19 alternatively enforcement by Fu was barred due to suspension and lapse of his contractor's  
20 license. Li v. Yan (I) was stayed by Bankruptcy court for some period of time.

21 On March 9, 2007, Li filed Li v. Tony Fu and Crystal Lei (San Francisco Superior Court  
22 No. CGC 07-461167) (hereinafter referred to as Li v. Fu), alleging fraud in the assignment of the  
23 contract. Li alleged Fu knew the contract had been terminated, and did not disclose it to Li when

1 he sold the assignment. Li was represented by attorney Paul Mousalam. Yan contacted  
2 Mousalam and informed him of Li v. Yan (I) that advanced a different theory of recovery for Li.  
3 Mousalam did not want to have anything to do with the other suit, but advised and urged Li to  
4 dismiss it because of the factual inconsistencies pled.

5 Yan contacted Li and urged him to dismiss Li v. Yan (I) and pursue the case against Fu,  
6 suggesting that they could join forces against Fu as a way of Yan getting “revenge”. Yan began  
7 giving legal advice to Li in person, by telephone, and in extensive e-mail exchange. By then,  
8 Yan was a law student. He convinced Li that he had superior strategy and knowledge of the law,  
9 coupled with personal knowledge of Fu and his former wife that placed him in a better position  
10 to advise Li than his attorney. Yan gave Li legal advice on document preparation, amendment of  
11 a party, additional causes of action, and deposition and discovery strategy. Mousalam sent a  
12 blank Request for Dismissal form to Li so he could dismiss Li v. Yan (I). Li requested Yan’s  
13 assistance in filling out the form. Yan instructed Li to just sign the form send it to him. Li’s  
14 confusion caused Yan to request meeting in person for Li to sign the form. The parties met on  
15 August 12, 2008, and Li signed his name to the blank dismissal form. Yan handwrote all other  
16 entries on the form, and checked the dismissal “with prejudice” box. Li was unaware that the  
17 dismissal was with prejudice and did not know the legal significance of “with prejudice” or  
18 “without prejudice”. Li had not instructed Yan to check the “with prejudice” box. Yan e-mailed  
19 a dismissal of the bankruptcy claim to Li, which Li signed. Yan filed both forms on August 20,  
20 2007, resulting in dismissal of Li v. Yan (I) with prejudice and dismissal of the bankruptcy  
21 claim.

22 On August 16, 2008, Li and Yan executed “Lawsuit Assignment”. (Pl Ex. 100) Yan  
23 persuaded Li that if assigned the lawsuit, Yan would be better able to control the suit and

1 properly advise Li. Li relied upon Yan for legal counsel. The Lawsuit Assignment stated in  
2 pertinent part:

3 “Yan shall minimize any legal cost to Li before Yan getting (sic) his license by  
4 doing all the work he can carry on for said case. Once Yan is admitted to the  
5 State Bar as an attorney this assignment shall be replaced by a attorney-client  
6 contract on the same term as stated above with no requirement that Li pay a  
7 retainer.”

8 The relationship between Li and attorney Mousalam became frayed. Yan sowed the  
9 seeds of dissatisfaction and Li became convinced that Yan was giving him better legal advice  
10 and strategy. Mousalam withdrew as counsel on August 28, 2008 following a dispute about  
11 signing a new fee agreement. Yan instructed Li to represent himself until Yan was admitted to  
12 the Bar, which he expected to happen in December. Yan assured Li that he would advise him on  
13 the conduct of the suit until that time, when he would assume formal representation as Li’s  
14 attorney. Li complied and was self-represented, with Yan giving him directions on how to  
15 proceed.

16 On August 19, 2008, three days after the “Lawsuit Assignment” was executed, Yan filed  
17 Yan v. Sui Ma, Charles Li, Tony Fu (Superior Court of San Francisco, CGC 08-478815). Li was  
18 aware that Yan planned to file a lawsuit against Li’s former attorney in the Li v. Yan suit for  
19 malicious prosecution. Yan told him he was going to name Li as a defendant only as a matter of  
20 legal procedure. Yan did not explain the conflict or the potential for liability, save to suggest  
21 that Li could ask Ma for “indemnification”. Li did not comprehend the import of the action.

22 Yan was admitted to the Bar in December 2008. The parties exchanged e-mails and  
23 signed a fee agreement for Yan’s representation on January 26, 2009. Yan repeatedly told Li the

1 assignment was unenforceable because of the termination of the contract and Fu's unlicensed  
2 contractor status and urged pursuing the fraud case against Fu. On March 20, 2009, Li and Fu  
3 participated in an Early Settlement Conference on the case. During the conference, a mediator  
4 opined that the Assignment was enforceable against Yan and raised this conflict of interest in  
5 Yan's representation. The mediator disclosed a second conflict of interest in that Yan had filed  
6 Yan v. Siu Ma, Charles Li, Tony Fu, et al; the case was still pending. Yan never disclosed the  
7 conflict or obtained a written conflict waiver arising from either circumstance. Li terminated  
8 Yan as his attorney two days later. Li v. Fu was settled on March 23, 2009. Yan dismissed Li  
9 only from Yan v. Ma, Li, Fu, et al on the same day without prejudice.

10 Li hired new counsel and attempted to reinstate Li v. Yan (I) and the claim in Bankruptcy  
11 Court, but was unsuccessful in each forum. He was denied relief under Cal. Code of Civil  
12 Procedure section 473 due to his delay in requesting relief. The petition for reinstatement of his  
13 claim in Bankruptcy Court was denied for similar reason. Li had not proceeded with the request  
14 for relief in each forum until February 2010.

15 On November 15, 2011, the State Bar of California notified Yan of disciplinary  
16 proceedings. The charges included violation of Rules of Professional Conduct, Rule 3-310(C)  
17 (3) – Conflict of interest relating to failure to disclose the conflict and obtain informed written  
18 consent to the potential conflict of interest from Li, and violation of Business and Professions  
19 Code section 6068(a) - the Unauthorized practice of law relating to Yan's legal counsel to Li  
20 during the pendency of Li v. Fu, prior to Yan's admission to the Bar. Defendant stipulated to the  
21 facts in a "Stipulation Re Facts, Conclusions of Law and Disposition" filed March 16, 2012  
22 relating to the conflict and failure to provide a written disclosure and informed written consent to  
23 the potential conflict.

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1 foreseeable impact of the conflict on the client, and (3) written consent of the client and waiver  
2 of the conflict. Baldwin noted that some conflicts are not waiveable, and others require the  
3 attorney to decline the case. An individual who engages in the unauthorized practice of law is  
4 held to the same ethical standards as licensed attorneys, and is required to meet the same  
5 standards for the duty of care and fiduciary duty.

6 In Baldwin's expert opinion, (1) Yan failed to meet the standard of care and fiduciary  
7 duty in his representation of Li because of the conflicts of interest, (2) Yan failed to meet the  
8 standard of care in the handling of the case, particularly in the action involving Fu, and (3) Yan  
9 had engaged in the unauthorized practice of law prior to his admission to the Bar, in his dealings  
10 with Li.

11 Baldwin opined that Yan had an actual conflict of interest under Rules of Professional  
12 Conduct 3-310 (C) (3), when he accepted representation of Li in 2009, whom he sued in Yan v.  
13 Ma, Li, Fu et al which was filed in 2008. Yan had a personal interest adverse to his client.  
14 Yan's promise not to serve Li did not diminish the conflict. Baldwin posited that a "reasonably  
15 careful" attorney would have declined representation of Li (in January 2009) based on the  
16 conflict and foreseeable impact. Yan demonstrated the adverse interest when he influenced Li to  
17 agree to dismiss Li v. Yan (I), which benefitted only Yan. By then, Yan had established an  
18 attorney client relationship in his unauthorized practice of law and owed Li the same conflict-  
19 free representation as licensed attorneys. Yan also violated Rules of Professional Conduct 3-310  
20 (B) in that he had a personal relationship with the parties and personal involvement creating  
21 personal motivation in his representation. Yan did not disclose the facts of the conflict, explain  
22 the reasonably foreseeable impact on Li, or obtain a written consent and waiver of the conflict.



1 Baldwin further opined that Yan violated the duty of care in using knowledge and skill  
2 that a reasonably careful attorney would utilize in the handling of the litigation. Correct legal  
3 advice is part of the duty of competence and duty of care. Yan did not perform research or give  
4 correct legal advice to Li about the enforcement of the assignment and related matters, thereby  
5 falling below the standard of care. He did not counsel Li or handle the case in the same way a  
6 disinterested, conflict-free attorney would have. Yan failed to advise Li that the contract might  
7 be enforceable or partially enforceable notwithstanding the termination agreement, provisions  
8 might be severable, or that Fu could litigate the enforcement of the Assignment to defeat the  
9 claim of fraud. More importantly, Yan did not advise Li that possibly both Fu and Yan could be  
10 liable. Yan sought only to insulate himself from any liability on the Assignment. To this end, he  
11 advised Li that the Assignment was invalid, leaving only the fraud theory of recovery, thus  
12 eliminating his financial exposure.

13 Finally, Baldwin opined that Yan had violated Business and Professions Code section  
14 6125, and engaged in the practice of law prior to admission to the Bar in 2008. The practice of  
15 law is defined as any activity that lawyers provide to clients, such as “legal advice” applying  
16 principals of law to the facts, advice on use of legal processes to secure a client’s goals, advising  
17 clients what to say in court before a tribunal, preparation of forms and legal documents, if to do  
18 so requires understanding and grasping legal principles and advising a client as to which option  
19 is better. The e-mails between Yan and Li disclosed numerous acts of unauthorized practice of  
20 law. Baldwin testified that an attorney-client relationship existed between Li and Yan well  
21 before 2009, imposing upon Yan the same standard of care and fiduciary duty as licensed  
22 attorneys. The attorney-client relationship which was the basis of the duty was established when  
23 Yan advised Li and engaged in activities amounting to the unauthorized practice of law starting

1 in 2007. The "Lawsuit Assignment" signed in 2008 is further evidence of the relationship. The  
2 "formal" attorney-client relationship began upon signing of the fee agreement in 2009, but was a  
3 continuation of the pre-existing relationship.

4 Baldwin noted that Yan had stipulated to the facts constituting the conflict in the  
5 Stipulation before the State Bar. She characterized the conflict as "egregious" and "such an  
6 extreme conflict" that it was unwaivable. The defense did not present any expert testimony.

### 7 CAUSATION

8 Plaintiff must prove that that Yan's negligence was a substantial factor in causing Li's  
9 loss of the enforcement of the Assignment. "An attorney's negligence need not be the sole cause  
10 of the client's loss." (Ishmael v. Millington (1966) 241 Cal. App. 2d 520, 529).

11 Yan's actions resulted in the loss of Li's meritorious claim for recovery on the  
12 Assignment. The Assigned Contract was valid and enforceable. The Court finds from the  
13 evidence at trial that Yan and Fu were in a joint venture for the development of the Property. The  
14 first provision of the contract (Joint Ex. 1) was payment of \$3,000 per month for compensation  
15 for Fu's construction work. The second provision for 10% of the proceeds was Fu's share of the  
16 profits from his participation in the joint venture. As such, California Business and Professions  
17 Code section 7031 does not apply to bar enforcement of the Assigned Contract. Epstein v. Stahl  
18 (1959) 176 Cal App. 2d 53, In re Yan (N>D> Cal. 2007) 381 B.R. 747. The second provision  
19 does not condition Fu's interest on any specific tasks, only "final inspection". The continuing  
20 ownership interest was confirmed in the language of the second document (Joint Ex. 9) which  
21 acknowledged "Tony's interest in the property, as specified in the agreement". Payment to Fu  
22 was tied to the other joint venture project on Chenery Street. Fu performed additional services  
23 towards the project of a non-construction nature after he ceased construction in May 2001.

1 Yan started giving legal advice to Li in August 2007, when he discovered Li had sued Fu.  
2 The acts constituting unlawful practice of law gave rise to an obligation by Yan to perform in a  
3 manner consistent with the standard of care for licensed attorneys. The standard of care required  
4 Yan to provide correct legal advice and inform Li that the Assignment was valid, and advise him  
5 of his rights against all potential defendants including Yan's potential liability. He was required  
6 to notify Li of the conflict, explain impact of the adverse interest, and follow the procedure for  
7 waiver. Had he done so, Li would have obtained independent counsel to provide conflict-free  
8 advice. Li would have been able to protect his interests. Yan owed Li a duty of loyalty, which  
9 required him to place Li's interest above his own, protecting his client even at his own expense.  
10 He persuaded Li to dismiss the lawsuit and initiated dismissing it with prejudice. Yan placed his  
11 own self-interest in eliminating liability for the Assignment above his obligation as an attorney to  
12 protect and advance Li's interests.

13 The 2009 fee contract formalized Yan's legal representation of Li. Yan continued to fail  
14 to advise Li of the conflict and failed to provide correct legal advice on rights against all  
15 potential parties. Li continued to direct the litigation towards holding Fu solely responsible.  
16 This prevented Li from obtaining independent conflict-free counsel and impeded his recovery on  
17 the Assignment. Discovery of the enforceability of the Assignment and conflicts forced Li to  
18 retain counsel to file for remedies in state and Bankruptcy courts. "The loss or diminution of a  
19 right or remedy constitutes injury or damages. (Viner v. Sweet (2003) 30 Cal. 4th 1232, citing  
20 Jordache Enterprises, Inc. v. Brobeck v. Phleger & Harrison (1998) 18 Cal. 4th 739, 744 with  
21 approval) The harm to Li was reasonably foreseeable. His right and remedy to enforce the  
22 Assignment was foreclosed by the dismissal entered by Yan. It was foreseeable that Yan's  
23 concealment of the conflict and lack of explanation of the implications of such would jeopardize

1 any actions to set aside the dismissal within the requirements of Cal. Code of Civil Procedure  
2 section 473. Delay in filing the motions for relief is a factor in assessing whether Yan's actions  
3 caused the loss, however, a substantial factor in causing damage to Li was the dismissal with  
4 prejudice caused by Yan.

5 The breach of standard of care and fiduciary duty by Yan was a substantial factor in  
6 causing Li to lose his claim against Yan on the Assignment. Li was forced to forfeit his right to  
7 proceed against both Yan and Fu together.

8 As a result of Yan's breaches of duty Li was forced to hire other counsel to attempt o  
9 remedy the harm. Li hired attorneys Wong & Associates and Ann Nguyen to reinstate the claim  
10 in Bankruptcy Court (\$29,075), Bao Pham to move to vacate the dismissal in Li v. Yan(i) (\$24,  
11 778.80), Duy Thai to appeal the denial of the dismissal (\$16,557.26). The legal fees to mitigate  
12 the harm amounts to \$70,411.42.

### 13 14 DAMAGES

#### 15 A. Under the Assignment

16 (1) Li would have been entitled to \$3,000 per month for the period of September  
17 13, 2000 when construction commenced to May 17, 2001, when the stop work  
18 order issued. This is a period of eight (8) months, for a total of \$24,000,

19 (2) Li would have been entitled to 10% of the "sold price or appraisal market  
20 price" if Yan kept the building rather than selling it. The Certificate of Final  
21 Completion and Occupancy issued on May 13, 2003. Yan valued the Property at  
22 \$1,600,000 in his Bankruptcy Court filing on December 19, 2004. The valuation

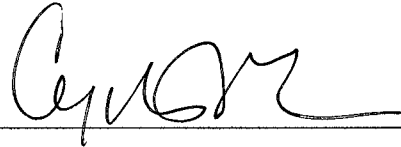
1 by Yan is sufficient to prove the value of the building. Li is entitled to 10% of  
2 that value, or 160,000.

3 Total =\$184,000

4 B. Legal fees incurred to mitigate the harm: \$70,411.42.

5 C. Pre-judgment interest to be calculated in accordance with C.C.P. 3287 et seq.

6  
7 March 9, 2013



8 Cynthia Ming-mei Lee

9 Judge of the Superior Court

**SUPERIOR COURT OF CALIFORNIA  
County of San Francisco**

CHARLES LI, an individual,

Plaintiff,

vs.

DEMAS YAN, an individual,  
and DOES 1 TO 10, Inclusive

Defendants.

Case Number: CGC-10-497990

**CERTIFICATE OF MAILING  
(CCP 1013a (4) )**

I, MELINKA JONES, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On MARCH 11, 2013, I served the attached STATEMENT OF DECISION by placing a copy thereof in a sealed envelope, addressed as follows:

DUY THAI, ESQ.  
One Embarcadero Center, Suite 2360  
San Francisco, CA 94111

DEMAY YAN, ESQ.  
100 Pine Street, Suite 1250  
San Francisco, CA 94111

*for CHARLES LI, PLAINTIFF*

*for DEMAS YAN, DEFENDANT in PRO PER*

and I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

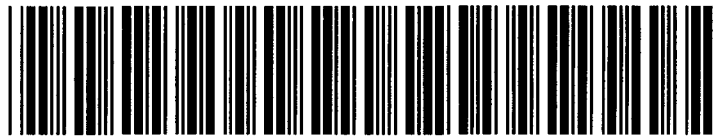
Dated: MARCH 11, 2013

T. MICHAEL YUEN, Clerk of the Superior Court

By: 

Melinka Jones, Deputy Clerk

# Exhibit D



**SUPERIOR COURT OF CALIFORNIA  
COUNTY OF SAN FRANCISCO**

**Document Scanning Lead Sheet**

Jun-24-2016 4:02 pm

Case Number: CGC-14-537574

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STATEMENT OF DECISION

CHARLES LI VS. THAI MING CHIU et al

001C05451086

**Instructions:**

Please place this sheet on top of the document to be scanned.



JUN 24 2016

CLERK OF THE COURT  
BY: *Y. M. [Signature]*  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN FRANCISCO – UNLIMITED JURISDICTION

CHARLES LI, an individual,

Plaintiff,

v.

THAI MING CHIU, an individual;  
DEMAS YAN, an individual; KAMAN  
LIU, an individual; TINA YAN a/k/a  
TINA FOON YU YAN, an individual;  
CHEUK TIN YAN, an individual; 547  
23RD AVENUE, LLC, a California limited  
liability company; 547 INVESTMENTS  
LLC, a California limited liability  
company,

Defendants.

Case No.: CGC-14-537574

PROPOSED  
STATEMENT OF DECISION

Dept.: 504

Judge: Honorable Suzanne R. Bolanos

This matter came on for trial on April 4, 5, 7, 8, 11, and 14, 2016. Plaintiff Charles Li (“plaintiff”) was represented by Duy Thai. Defendants Thai Ming Chiu, Kaman Liu, Cheuk Tin Yan, and Tina Yan were represented by Demas Yan and Albert L. Boasberg.

On February 19, 2014, plaintiff filed this action to set aside fraudulent transfers of real property located at 547 23rd Avenue, San Francisco (the “Subject Property”), and ownership interests of limited liability companies holding 100% of the Subject Property, against defendants Thai Ming Chiu, Demas Yan, Kaman Liu, Tina Yan

1 a/k/a Tina Foon Yu Yan (“Tina Yan”), Cheuk Tin Yan, 547 23rd Avenue, LLC, and 547  
2 Investments LLC.

3 On May 21, 2014, default was entered against defendant 547 Investments,  
4 LLC and defendant Demas Yan. On September 25, 2014, default was entered against  
5 defendant 547 23<sup>rd</sup> Avenue, LLC. Plaintiff filed the request for dismissal of Does 1  
6 through 50 on August 25, 2015.

7 On April 14, 2016, the jury rendered special verdicts against each of the  
8 appearing defendants Cheuk Tin Yan, Tina Yan, Thai Ming Chiu, and KaMan Liu  
9 (collectively “Appearing Defendants”). Outside the presence of the jury, the Court in  
10 equity considered other testimony, evidence, and arguments presented by the parties  
11 relating to the defendants’ affirmative defenses of equitable ownership interest, trust,  
12 equitable title, resulting trust, and equitable lien.

13 After full consideration of the evidence, testimony, and exhibits presented  
14 at trial, arguments of counsel, and authorities presented by the parties, the Court finds  
15 that defendants did not establish any equitable grounds for altering the jury’s verdict.

### 16 FINDINGS OF FACT

17 The Court adopts the jury’s factual determinations, as reflected in the  
18 special verdicts:

- 19 1. Plaintiff has a right to payment from Demas Yan.
- 20 2. Plaintiff’s right to payment from Demas Yan arose before Demas  
21 Yan transferred the Subject Property.
- 22 3. Demas Yan transferred the Subject Property to defendants Cheuk  
23 Tin Yan, Tina Yan, Thai Ming Chiu, and KaMan Liu.
- 24 4. Demas Yan transferred the Subject Property to defendants with the  
25 intent to hinder, delay, or defraud plaintiff.
- 26 5. Demas Yan failed to receive a reasonably equivalent value in  
27 exchange for the transfer of the Subject Property.



1                   2.       Appearing Defendants failed to prove that they entered into any  
2 transactions in relation to the Subject Property that constituted an investment in the  
3 Subject Property or a purchase of an ownership interest, equitable or otherwise, in the  
4 Subject Property.

5                   3.       Defendants Cheuk Tin Yan and Tina Yan's quitclaim of the  
6 Subject Property to Demas Yan in 2006 conclusively established that they had no  
7 interest, equitable or otherwise, in the Subject Property thereafter.

8                   4.       Demas Yan's 2012 transfer of his ownership interest in the Subject  
9 Property to Appearing Defendants was not, as defendants argued, merely a transfer or  
10 perfection of legal title to persons who already owned equitable title or equitable interests  
11 in the Subject Property.

12                  5.       If Defendants owned any equitable interests in the Subject  
13 Property (which they did not), then the mortgages obtained on the Subject Property in  
14 2003 and 2004 would have been fraudulent and defendants come before equity with  
15 unclean hands.

16                  6.       Plaintiff Charles Li has established a superior equitable interest in  
17 the Subject Property. In light of plaintiff's interest and defendants' unclean hands, the  
18 balance of equity tips in favor of plaintiff.

19                  7.       As a separate and independent ground for denial of equitable relief,  
20 Defendants filed proofs of claim in Demas Yan's bankruptcy case, *In re Demas Yan*, No.  
21 04-33526 (N.D. Cal. Bkcy 2005), which claims were all substantively disallowed by the  
22 United States Bankruptcy Court and Ninth Circuit Bankruptcy Appellate Panel.  
23 Appearing Defendants had full notice and opportunity to be heard as to any and all legal  
24 and equitable theories regarding any and all claims that they may have had on Demas  
25 Yan's assets, including all the transactions that they have alleged in the present action.  
26 Thus, res judicata and collateral estoppel precludes Defendants from rearguing the  
27 existence, validity, or import of these alleged transactions, under any legal or equitable  
28 theory.

1 **STATEMENT OF DECISION**

2 Pursuant to California Rules of Court, Rule 3.1590(g), this Proposed Statement  
3 of Decision shall be the Final Statement of Decision unless, within fifteen (15) days  
4 from the date hereof, any party serves and files objections to this Proposed Statement of  
5 Decision. Parties objecting under Cal. R. Ct. 3.1590(g) should be familiar with the  
6 authorities that describe the limited purposes of objections.<sup>1</sup>

7  
8 Dated: 6/24/16

9   
10 HONORABLE SUZANNE R. BOLANOS  
11 JUDGE OF THE SUPERIOR COURT  
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25 <sup>1</sup> *E.g., Golden Eagle Ins. Co. v. Foremost Ins. Co.*, 20 Cal.App.4th 1372, 1380  
26 (1993); *Yield Dynamics, Inc. v. TEA Sys. Corp.*, 154 Cal.App.4th 547, 560 (2007); *Heaps*  
27 *v. Heaps*, 124 Cal.App.4th 286, 292 (2004) (“The main purpose of an objection to a  
28 proposed statement of decision is not to reargue the merits, but to bring to the court’s  
attention inconsistencies between the court’s ruling and the document that is supposed to  
embody and explain that ruling.”).

**Superior Court of California**  
**County of San Francisco**

CHARLES LI, an individual,

Plaintiff(s)

vs.

THAI MING CHIU, an individual, DEMAS YAN, an individual, KAMAN LIU, an individual, TINA YAN aka TINA FOON YU YAN, an individual; CHEUK TIN YAN, an individual; 547 23<sup>RD</sup> AVENUE, LLC, a California limited liability company; 547 INVESTMENTS LLC, a California limited liability company,

Defendant(s)

Case Number: CGC-14-537574

**CERTIFICATE OF MAILING**  
(CCP 1013a (4) )

I, Yolanda Mazariegos, a Deputy Clerk of the Superior Court of the County of San Francisco, certify that I am not a party to the within action.

On June 24, 2016, I served the attached PROPOSED STATEMENT OF DECISION by placing a copy thereof in a sealed envelope, addressed as follows:

DUY THAI, SBN 157345  
One Embarcadero Center, Suite 1020  
San Francisco, CA 94111

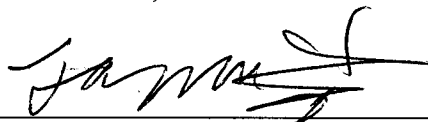
ALBERT LOEB BOASBERG, SBN 031205  
155 Montgomery Street, #1010  
San Francisco, CA 94104

and, I then placed the sealed envelopes in the outgoing mail at 400 McAllister Street, San Francisco, CA. 94102 on the date indicated above for collection, attachment of required prepaid postage, and mailing on that date following standard court practices.

Dated: June 24, 2016

MICHAEL YUEN, Clerk

By: \_\_\_\_\_



Yolanda Mazariegos, Deputy Clerk